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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(El Dorado)

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THE PEOPLE,

Plaintiff and Respondent,

v.

HESTON CAVALIER SCHMUCKER,

Defendant and Appellant.

C081712

(Super. Ct. Nos. P15CRF0256,  
P15CRF0315)

Appointed counsel for defendant Heston Cavalier Schmucker asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Based on our review of the record, we will modify the judgment to include the imposition of two mandatory fees and affirm the judgment as modified.

BACKGROUND

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

***El Dorado County Superior Court, case No. P15CRF0256 (case No. 256)***

Security cameras recorded an image of defendant opening Aaron and Misty Davis's mailbox at 1:25 a.m. Later that morning Aaron reported a camera was stolen from his mailbox. Law enforcement officers subsequently executed a search warrant on defendant's home. Inside, they found mail addressed to the Davises, a partially completed credit application in Aaron Davis's name, another completed credit application in Aaron Davis's name, and a computer thumb drive containing Aaron Davis's personal information.

***El Dorado County Superior Court, case No. P15CRF0315 (case No. 315)***

Blaming Kendall and Dawn Moore for the search of his residence, defendant went to the Moore's home and assaulted them. Defendant walked into the Moore home holding a "Bowie knife" and began a fistfight with Kendall Moore that resulted in Kendall nearly losing his pinkie finger on the knife. Defendant also punched Dawn in the face and cut her forehead, a cut that later required 21 stitches.

***Plea, Judgment, and Sentence***

Defendant later pleaded no contest to two counts of identity theft in case No. 256 and the remaining charges were dismissed with a *Harvey*<sup>1</sup> waiver. In case No. 315, defendant pleaded no contest to first degree burglary with a person present and admitted inflicting great bodily injury on Kendall Moore. The remaining charges and allegations also were dismissed with a *Harvey* waiver.

The trial court sentenced defendant to serve a stipulated aggregate term of 10 years 4 months in state prison. The court awarded defendant 173 days of actual custody credit and 172 days of conduct credit. The court also ordered defendant to pay direct

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<sup>1</sup> *People v. Harvey* (1979) 25 Cal.3d 754.

victim restitution along with various fines and fees, including a \$140 court operations fee and a \$130 “critical needs assessment fee.”

Defendant appeals the judgment without a certificate of probable cause.

### DISCUSSION

Our review of the record has revealed the following errors in the imposition of mandatory fees. Penal Code section 1465.8 requires the trial court to impose a \$40 court security fee on each of defendant’s convictions. Defendant was convicted on three counts; the total court security fee imposed should be \$120. The trial court, however, imposed a \$140 court security fee and the court clerk recorded the amount as \$80. We modify the judgment to impose a \$120 court security fee.

Similarly, Government Code section 70373 requires the trial court to impose a \$30 court facilities fee for each of defendant’s three convictions. The total court facilities fee imposed should be \$90, not the \$130 imposed by the trial court nor the \$60 recorded by the court clerk in the abstract of judgment.<sup>2</sup> We modify the judgment to impose a \$90 court facilities fee.

Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment as modified.

### DISPOSITION

The judgment is modified to impose a \$120 court security fee pursuant to Penal Code section 1465.8 and a \$90 court facilities fee pursuant to Government Code section 70373. The trial court is directed to amend the abstract of judgment to reflect

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<sup>2</sup> We presume the “critical needs assessment fee” imposed by the trial court actually refers to the court facilities fee since, other than the restitution fines, no other fee is recorded in the abstract of judgment.

these fees and deliver a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

\_\_\_\_\_/s/  
HOCH, J.

We concur:

\_\_\_\_\_/s/  
HULL, Acting P. J.

\_\_\_\_\_/s/  
MAURO, J.